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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,187	04/25/2001	Michael L. Nelson	1857.0350000	3650
26111	7590	12/19/2003		
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER ESPLIN, DAVID B				
ART UNIT		PAPER NUMBER		
2851				

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/841,187	Applicant(s) NELSON ET AL.	
	Examiner D. Ben Esplin	Art Unit 2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-14, 19-28, 30-40, 42-45 and 49-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-14, 19-28, 30-40, 42-45 and 49-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

The previous objections to the claims are withdrawn due to the Amendment filed 11/19/03.

Claim Rejections - 35 USC § 112

The previous rejections of the claims under 35 U.S.C. §112 is withdrawn due to the Amendment filed 11/19/03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10, 12-14, 19-28, 30-40, 42-45, and 49-61 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,208,407 to Loopstra.

FIG. 3 of Loopstra schematically shows a focus system for focusing an illumination pattern onto a substrate including a calibration sensor (first height sensor 150), a secondary control sensor (second height sensor 160) producing a first measurement, a primary control sensor (third height sensor 180), and a focus adjuster (Z actuator in substrate holder 111, see col.

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15 lines 56-61). The first measurement corresponds to an output that the secondary control sensor is at the proper focus distance (col. 15 lines 20-26), and the second measurement corresponds to an output of the primary control sensor while the specific region is positioned under the exposing area, and the focus adjuster adjusts the position of the specific region based on a difference between the first and second measurements, until the primary control sensor produces a second measurement identical to the first measurement (col. 15 lines 56-61).

Loopstra further teaches that the calibration sensor may be an air gauge, a capacitance gauge, or an optical gauge (col. 14 lines 29-32), and that an exposing area (projection system 305) may include a lens, as in an optical system, or project an electron beam, or a shadow (col. 23 lines 21-27). Loopstra also teaches that the substrate should be focused by the calibration sensor for each specific region on the substrate (col. 4 lines 12-14), thus teaching that the substrate should be moved according to the exposure pattern.

Response to Arguments

Applicant's arguments filed 11/19/03 have been fully considered but they are not persuasive.

Applicant has argued that Loopstra does not suggest the use of a calibration sensor for determining a focal position. Applicant states that the height sensor 150, applied by Examiner as a calibration sensor, detects a height, or Z-axis position, and not a focal position. A Z-axis position, or position along the optical axis is inherently a focal position, so the detection of height is the detection of a focal position. This is supported by col. 12 lines 42-52 of Loopstra, and paragraph 50 of the instant application. Consequently, this argument is not persuasive.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Ben Esplin whose telephone number is (703) 305-4022. The examiner can normally be reached on Mon.-Fri. (8am-4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell E. Adams can be reached on (703) 308-2847. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

DBE
DBE


RUSSELL ADAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800